

Arkansas, Inc.

News for Arkansas Corporations from Secretary of State Charlie Daniels

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www.sos.arkansas.gov

Advisory Board to Guide Improvements

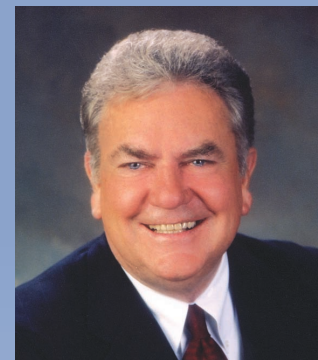
Over the past three years, the Arkansas Secretary of State's office has continually sought ways to improve services to the state's businesses and residents. The most recent innovation is the formation of a Business and Commercial Services Advisory Board.

The board, which will become active in 2006, will strive to maintain a high level of service to the business community. It will consist of professionals from several different areas such as the legal field, banking industry, CPA's, notaries public, corporate officers, service providers, customers, legislators, county officials and private citizens.

"I am very pleased to announce the formation of this board," Secretary of State

Charlie Daniels said. "In order to keep a pulse on different areas of the business community we service, the board will be highly diversified. The regulations and laws we enforce have a direct effect on our citizens and business people. If we can get their input up front, we can design better ways to help meet their needs as well as the needs of the state."

Communication lines between the public and the board will be open between meetings. By promoting feedback from the business community, BCS can continue to improve services by streamlining processes and finding new, innovative ways to conduct business.



Secretary of State Charlie Daniels

Gearing up for the collection of franchise taxes is the order of the day! Corporations that have not met all franchise tax requirements for the reporting year of 2005 must do so by December 31, 2005, or forfeit their corporate privileges. The most expedient way to pay franchise tax is online at www.sos.arkansas.gov. Payments are processed immediately and receipts are downloadable for proof of payment. New legislation has made it possible for tax preparers to have the luxury of processing payments for entities.

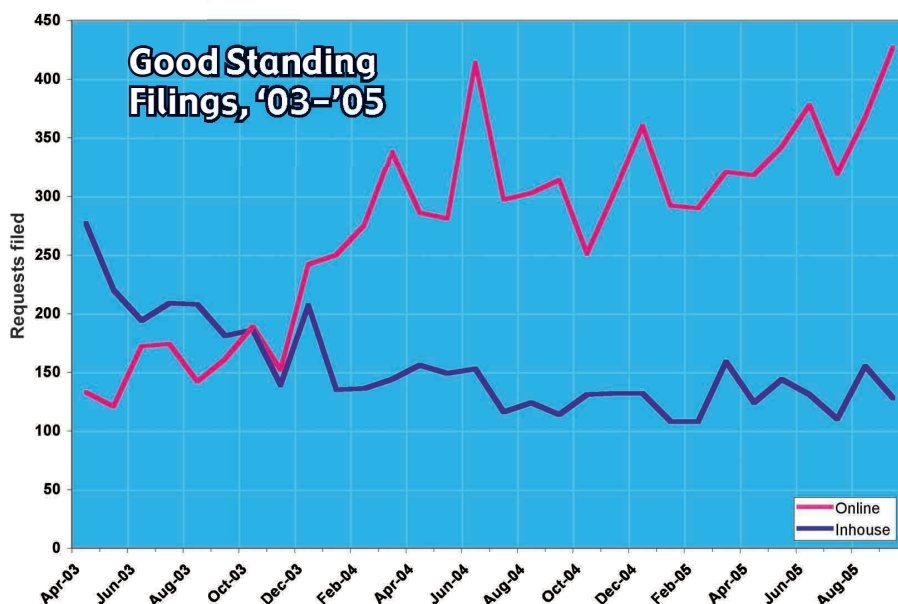
I am committed to making business services convenient and accessible to the business community of Arkansas. Presently, online usage is nearing 16 percent for the year, which is a 5-percent increase over last year. We all know the change from paper forms to using online services can be a bit daunting, but once you've tried it, you'll never go back to paper forms. My office stands ready to assist those who want to give online a try but are still a bit apprehensive.

Great strides are being made for the 2006 Franchise Tax Reporting year. Collection will begin in January and

(See *LETTER* on page 3)

Use of Online Services Continues to Grow

The utilization of online services is rapidly increasing in Arkansas. More entities in Arkansas are conducting business online through the Secretary of State's website, www.sos.arkansas.gov, each year. In April 2003, only 32 percent of requests for certificates of good standing were processed online. Now, 77 percent are completed online, and total requests have increased by over 25 percent. Online filing of franchise taxes is also gaining popularity, growing from 5 percent filed online in 2003, to 16 percent filed online in the first 10 months of 2005. Arkansas has seen a 12 percent increase in the total number of corporations filing to conduct business in the state since 2003. (See *FRANCHISE TAXES FILED* on page 4)





NOTICE: Forfeiture of Corporate Charter

Each year, the Arkansas Secretary of State is required to compile a list of corporations that have not met all Franchise Tax requirements. This card serves as notification that your company's status will move from "not current" to "revoked" on January 1, 2006, unless you take action and pay your Franchise Tax. Corporations that have not met these requirements are subject to forfeiture of corporate charter.

Payment of all Franchise Taxes, with penalty and interest, is due by December 31, 2005.

File Online at www.sos.arkansas.gov

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***Need additional information? Contact the
Secretary of State's Business & Commercial Services Division
(501) 682-3409 ♦ (888) 233-0325 ♦ corporations@sos.arkansas.gov***

Revised Article to Affect Certain UCC Filings

June 30, 2006, is a critical date in the transition from the former Article 9 filing system to the system in place under the Revised Article 9 (RA9). In particular, A.C.A. 4-9-705(c)(2) provides that financing statements (other than those relating to transmitting utilities) filed under the old law cease to be effective June 30, 2006 (the "cut-off date"). At first glance, this provision would appear to be of minimal importance since most filings under the old law (which went out of existence in Arkansas June 30, 2001) had a five year lifespan and, thus, will expire on their own no later than the cut-off date. But the cut-off date may have a significant effect on 1,121 filings under the old law in the state of Arkansas.

The affected filings are those that:

- 1.** Were first filed in the second half of 1996 (or 1991, and then continued) and, thus, under the rules of former Article 9 would have ceased to be effective in the second half of 2001;
- 2.** Were properly continued by the filing of a continuation statement early enough in the six-month window for continuations so that the continuation statement was filed under former Article 9 in the first half of 2001;
- 3.** Thus, under the rules for continuation statements under former Article 9, would cease to be effective five years after the original lapse date – in other words, would cease to be effective at some point in the second half of 2006.

As a result, but for A.C.A. 4-9-705(c)(2), the affected filings would lapse in the second half of 2006 ("the normal lapse date").

How does A.C.A. 4-9-705(c)(2) affect these filings? That depends on whether the state whose law governs perfection of the security interest under RA9 is the same state in which the filings were made under former Article 9. If the state governing perfection has changed, as in the case of a debtor incorporated in State X but with its chief executive office in State Y, the answer is clear. The filing in State Y will cease to be effective to perfect the security interest on June 30, 2006, but its effectiveness can be continued by filing in State X at any time through June 30, 2006, of an initial financing statement in lieu of a continuation statement under A.C.A. 4-9-706.

Unfortunately, the answer is not so clear for security interests as to which governing law has not changed (i.e., security interests whose perfection under RA 9 is governed by the law of the same state in which the filings were made). There seem to be three different theories for (a) when will the effectiveness of the filings in this group lapse and (b) when does the period for filing a continuation statement begin:

- 1.** The affected filings lapse on June 30, 2006, but may be continued by the filing of a continuation statement during the period from January 1 through June 30.

(See UCC on page 4)

NOTARY CORNER

Filling in the Blanks

The past two Notary Corners have talked about notaries public in general and recently passed legislation. This issue will deal with a more concrete subject: filling in the blanks. Many notaries start notarizing documents with little or no training; this issue will deal with some basics.

The following example is an acknowledgement form as prescribed by A.C.A. 16-47-101. Taking acknowledgements is perhaps the most common duty of a notary. Acknowledgements must appear on all real estate documents and on many contracts. If the acknowledgment certificate is not pre-printed on the document, a certificate in substantially the same form as below must be attached.

State of (1)
 County of (2)

On this the (3) day of (3) , 2005, before me, (4) , the undersigned officer, personally appeared (5) , known to me (or satisfactorily proven) to be the person whose name(s) (6) subscribed to the within instrument and acknowledged that (7) executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

 (8)
 (9)

Items (1) and (2) make up the venue. The venue notes the geographic location where the document is signed. For notaries that are commissioned by the State of Arkansas, item (1) is always Arkansas. If the document had been pre-printed with another state's name in this blank, the name of the other state should be marked out and changed to Arkansas.

As part of the venue, blank (2) must be filled in with the name of the county where the document is signed. Although

your notary bond and oath are recorded in your county of residence, the one noted on your seal, a notary has statewide jurisdiction.

Item (3) should be the date the acknowledgement is signed.

The name of the notary public goes in blank (4). It should be the same as your official signature and as it appears on the notary seal, on the records of the Secretary of State's office and as it will be signed on the acknowledgment.

The name of the person or persons who executed or signed the document is placed in blank (5). If two names are pre-printed in this blank and only one person appears before you, the absent person's name should be marked out.

In item (6), the number of persons signing the acknowledgement will determine whether the notary fills in the word *is* or *are*.

The number and gender of the number of persons signing the acknowledgement will determine whether the notary fills blank (7) with the word *he*, *she* or *they*.

The notary's official signature as it appears on the seal and on the records of the Secretary of State's office is signed in blank (8).

Under the signature, in blank (9) place the title of the person who took the acknowledgement. Fill in Notary Public if it has not already been pre-printed on the document.

After filling in the blanks you should affix your official seal to the document under or near your signature. According to Arkansas law "the seal shall be clear and legible and capable of photographic reproduction." The seal should also contain the notary's commission expiration date. If it does not, the expiration date must be written on the certificate.

The responsibilities of notaries public are very important. Completing a certificate of acknowledgement in a complete, accurate and professional manner is part of this responsibility. For questions concerning or training in the qualifications, responsibilities and duties of notaries public, please contact our office.

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franchise taxes are payable without penalty through May 1, 2006. For additional information, contact the Business and Commercial Services Division at 501-682-3409 or toll free at 1-888-233-0325.

I also want to remind all Arkansas notaries public of the training seminars we offer through the Secretary of State's office. Although the state does not mandate the class, I encourage notaries to attend these free, informative sessions in the Business and Commercial Services division. More information is available on our website, www.sos.arkansas.gov.

Please let me know how online filings and the notary sessions are helping your business, and how we can further help you, by contacting me through the Business and Commercial Services Division at 501-682-3409.

LLP Fees, Annual Reports Now Due

All Limited Liability Partnership entities must file an annual report form with payment of fees. Those reports and fees are due immediately. The reporting period for LLP's is between January 1 and April 1 each year. LLP's that do not file their annual report information will be revoked December 31, 2005.

By Act 1518 of 1999, this is the first year that all LLP's must file an Annual Report. If an LLP is revoked, entity status will be reverted back to a General Partnership. For a period of two years after the revocation, filing the necessary fees can reinstate a LLP. After that two-year period has expired, the LLP must submit paperwork and fees to regain LLP status.

UCC, continued from page 2

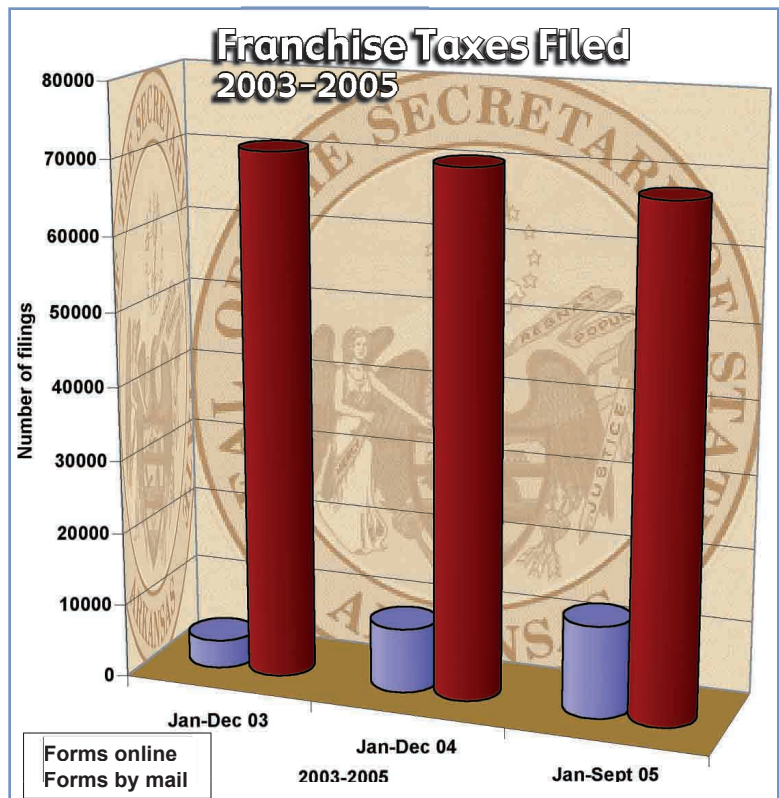
2. The affected filings lapse on June 30, 2006, but may be continued by the filing of a continuation statement during the period running from six months before their normal lapse date through June 30.

3. The affected filings do not lapse on June 30, 2006. Rather, they lapse on their normal lapse date and may be continued by the filing of a financing statement at any point during the six months before the normal lapse date.

Fortunately there is a common solution to all three interpretations of the 9-705 problem. Filers who find themselves possibly being impacted by this scenario should file their continuations between June 1, 2006 and June 30, 2006. This "common" filing period or "safe harbor" exists in all three scenarios.

Filers that find themselves in this situation may wish to seek advice of legal counsel. An article appearing in the September 2005 issue of the *UCC Bulletin* details this situation. A reprint of the article may be obtained from our legal office.

(Information obtained for this article taken from presentations and correspondence by Harry C. Sigman, Neil Cohen and Steve Weise)

**Dissolution Notice**

All entities relinquishing corporate status in the state must file proper dissolution/ withdrawal forms and fees by December 31, 2005, to avoid liability for additional years of taxes.



**Secretary of State
Charlie Daniels**

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